

To: Ball, Harold[Ball.Harold@epa.gov]
Cc: Herrera, Angeles[Herrera.Angeles@epa.gov]; Seter, David[Seter.David@epa.gov]
From: Manzanilla, Enrique
Sent: Thur 10/26/2017 5:22:42 PM
Subject: RE: HLP Construction Details

Thanks Harry! What's the date on Dusty's email?

From: Ball, Harold
Sent: Thursday, October 26, 2017 10:10 AM
To: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>
Cc: Herrera, Angeles <Herrera.Angeles@epa.gov>; Seter, David <Seter.David@epa.gov>
Subject: FW: HLP Construction Details

No final tech memo. Dave shared the attached info that is publicly available. I also attach Dusty's email (from 08/24/2017) on ARC OU8 liability that is internal. Our last cost demand letter (08/02/2017, attached) included this language:

EPA does not agree that the liability for the existing and threatened releases at OU-8 is an "orphan share," despite the repeated invocation of this term in the counteroffer. The EPA 1996 orphan share guidance is inapplicable to owner/operator sites, such as Anaconda, and the principle of joint and several liability remains applicable. The majority of the hazardous substance-containing material disposed of at OU-8 is Site-sourced mine waste. Even a successful divisibility argument as to OU-8 liability in a litigated result, should ARC succeed in meeting its burden, would likely result in a minor reallocation at most. EPA also disagrees with the further argument in the counteroffer that, as to costs associated with other Site OUs, "a not-insubstantial portion of these costs is rightfully attributable to the Arimetco orphan share." A divisibility argument as to Site-wide groundwater is far too tenuous to warrant a reduction of EPA's settlement position, especially in light of ARC's potential liability for OU-8.

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Harold Ball, Chief, NV & Federal Facilities Section (S82), EPA Region 9 Superfund, w)
415.972.3047, c) 415.819.9821, ball.harold@epa.gov

From: Seter, David

Sent: Sunday, September 17, 2017 10:30 PM

To: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>

Cc: Ball, Harold <Ball.Harold@epa.gov>; Rodriguez, Dante <Rodriguez.Dante@epa.gov>;
Herrera, Angeles <Herrera.Angeles@epa.gov>; Minor, Dustin <Minor.Dustin@epa.gov>;
Collins, Jim <Collins.Jim@epa.gov>

Subject: HLP Construction Details

Per Enrique's request ... excerpt from publicly available document ... Supplemental RI Report OU8, CH2M, October 2011 ... noting the predominance of Anaconda materials VLT and WR3 Waste Rock in the OU8 Heap Leach Pads (HLP).

This information was further refined by CH2M in the Tech Memo "W-3 Waste Rock Area, Heap Leach Pad, and Oxide Tailings Analysis, Anaconda Copper Mine, July 28, 2016." (not released to the public but potentially releasable) (also attached)